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| 10/077,667  | 02/15/2002  | Allon G. Englman     | 47079-0127            | 2996             |
| 30223   | 7590        | 03/31/2005           |                       |                  |
| JENKENS & GILCHRIST, P.C.<br>225 WEST WASHINGTON<br>SUITE 2600<br>CHICAGO, IL 60606 |             |                      | EXAMINER<br>HSU, RYAN |                  |
|   |             |                      | ART UNIT<br>3713      | PAPER NUMBER     |

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/077,667

Applicant(s)

ENGLMAN, ALLON G.

Examiner

Ryan Hsu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 20-22 and 25-42 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-18, 20-22, and 25-42 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Examiner's Comment***

The following action is a result of the Interview summary wherein prosecution was agreed to be re-opened. Additionally, the after Final amendments to claims 1 and 25 are hereby incorporated in the application.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Farrell et al. (GB 2242300 A).**

With reference to claims 20-21, Farrell discloses an gaming machine that is implements a wagering game on a game machine wherein the machine receives a wager from a player (*see FIGS. 1-2*), and randomly selects an outcome from a plurality of possible outcomes, the plurality of possible outcomes include a plurality of winning outcomes defined by a pay table, the winning outcomes in the pay table being directly associated with respective non-credit-based awards; and provides the associated non-credit based award if the selected outcome is one of the winning outcomes (*see col. 9: ln 4-36*). Additionally, Farrell implements a bonus game wherein the non-credit based awards include a number of movements of a space identifier along a trail, the number of movements varying by the winning outcomes produced by the random outcomes (*see col. 1: ln 19-30, col. 5: ln 5-17*). Furthermore Farrell implements a trail that includes a plurality

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of spaces, where at least some of the spaces being associated with respective credit-based awards (*see col. 6: ln 1-20*).

**Claims 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoseloff et al. (USPN 6,311,976).**

Claim 22 is rejected as being anticipated by the disclosed invention in Yoseloff. Yoseloff discloses a game machine that implements a method comprising of receiving a wager from a player. Thus causing a randomly selected outcome from a plurality of possible outcomes, the plurality of possible outcomes including a plurality of winning outcomes defined by a pay table, the winning outcomes in the pay table being directly associated with respective non-credit based awards; and providing the associated non-credit-based award if the selected outcome is one of the winning outcomes (*see FIGS. 1-3, 7, col. 7: ln 36-64*). Additionally, he discloses an award that includes a number of free plays of the games varied by the different winning outcomes (*see col. 10: 20-24*).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-17 and 25-41 are rejected under 35 U.S.C. 103(a) as being unpatentable by Claypole et al. (GB 2,262,642 A) in view of Moody (6,364,313 B1) and with motivation to combine provided by Yoseloff (6,311,976 B1).**

Claypole discloses a wagering game that is able to receive a single wager on a gaming machine from a player to purchase a series of plays of a basic portion of the game (*see col. 1: ln 10-24, col. 2: ln 2-16*). Furthermore Claypole implements a method of play wherein a response to a single wager a randomly generated outcome is made for each play, and it provides a series of plays with an accumulation feature that accumulates an element of the game over a plurality of plays in the series (*see col. 1: ln 10 – col. 2: ln 24*) [claim 1, 25]. However, Yoseloff lacks in disclosing a method wherein only one wager exists to purchase a series of plays for a basic portion of a game. However, Moody teaches a method to play keno games wherein a player can make a wager for a ticket for a consecutive series of games (*see col. 4: ln 1-11*). Moody's method allows the convenience of not having to receive a new ticket each play while the adaptability to choose different groups of numbers during each new game. Moody also discloses that his invention may be used to play keno electronically or physically (*see col. 1: ln 30-40*). This would motivate one to combine the teachings of Claypole and Moody in order to create an electronic game of keno in order to provide a game machine that is more efficient and convenient for the players. Therefore it would be obvious to one at the time of the invention to combine the teachings of Claypole and Moody to create a new game machine that enhanced the experience for the players. Additionally, Yoseloff provides a further motivation to combine Claypole and Moody as he teaches that it is common in the video wagering devices that a variety of games offered on video platforms such as blackjack, draw poker, stud poker, video poker, video keno, and video reel slots are all common games that can be adapted as a basic game in a gaming device (*see col. 1: ln 20-37*). This would make it obvious to one of ordinary skill in the art at the time of the invention to combine Claypole and Moody in view of Yoseloff in order to provide an

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accumulation game machine that implemented only one wager for a series of plays [claim 1, 2, 25, and 26].

Claims 3-4, 28-29, Claypole discloses an accumulation feature that is triggered by a special outcome in the basic portion wherein the accumulated element is a position on a trail, ladder, or meter (*see col. 9: ln 3-15*).

Claims 5-8, 30-33 are disclosed by Claypole, wherein a method of a position identifies a credit amount, a multiplier, a number of free plays of the basic portion, a bonus round, or movement to another position on the trail, the ladder or the meter (*see col. 2: ln 15-36*). Additionally this accumulated element is a collected object. The disclosed “bonus” is the response to a collection of a predetermined number of the object during the series of plays (*see col. 2: ln 2-17 (2,262,642)*). Furthermore, Claypole discloses a method where the accumulation feature is reset to include no accumulated elements once the previous series of plays is finished where it is a function of the invention that is part of the software design (*see col. 9: ln 3-27*).

Claims 9-15, 34-39 are disclosed by Claypole, wherein each play includes a random event regarding the reels that is independent of other plays in the series (*see col. 1: ln 10-27*). The game also consists of a basic portion and a bonus feature triggered by a special outcome in the basic portion (ie: a winning line that triggers a win on the bonus game) (*see FIG. 1, col. 1: ln 10-col. 2: ln 16*). Claypole also discloses an accumulated element that can be redeemed if a certain condition is met by a predetermined event in the game. This predetermined event corresponds to a certain position of the element on a trail, ladder or meter (*see col. 9: ln 5-20*).

Claims 16-17, 40-41 are disclosed by Claypole, wherein a wagering game provides an award to the player if the outcome is a winning outcome and the basic portion includes a slot

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game having a plurality of symbol-bearing reels that, during each play in the series, are spun and stopped to place symbols on the reels in visual association with a display area (*see col. 2: ln 2-16*).

**Claim 18 and 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Claypole et al. and Moody in further view of Duhamel (USPN 6,311,976).**

The disclosure of Claypole and Moody as discussed above and is, therefore, incorporated herein. However, Claypole and Moody lack in disclosing a draw poker game. Duhamel, in an analogous gaming system, teaches, in FIGS. 2-9, col. 5: ln 47-67 & col. 6: ln 1-37, a draw poker game and poker hand rankings table. It would have motivated one to combine the teachings of Duhamel with the disclosure of Claypole and Moody in order to diversify the type of games offered by the gaming machine and increase the overall excitement of the game. Therefore it would have been obvious to one of ordinary skill at the time the invention was made to It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Duhamel with Claypole and Moody in order to create a more exciting game machine.

#### **Response to Arguments**

Applicant's arguments filed on 4/12/2004 have been fully considered but they are not persuasive. Applicant argues that Yoseloff is **devoid of any disclosure or suggestion of Applicant's block wagering invention**. The Examiner respectfully disagrees. Yoseloff, teaches the accruing of non-monetary credits for a bonus game based on a series of games in the basic game (ie: from the first game till the pay out) (*col. 7: ln 37 - col. 8: ln 47*).

With regards to Yoseloff disclosing the block wagering invention, Applicant argues that Examiner relies on the following statement in Yoseloff to disclose block wagering, “awarding at least one type of non-monetary credit to the player after collection of non-monetary credits during a set time.” However, Examiner would like to point out that in col. 7: ln 40-50, Yoseloff clearly outlines the game as having a payout “at the conclusion of a number of first games.” This clearly shows the anticipation of the block wagering as it alludes to the idea of several games played in series for a desired result in the accumulation bonus game.

The Applicant argues that Yoseloff **does not eliminate the need for the player to place a wager on each play of the first or basic game.** The argument is now moot in light of the rejections made above with the introduction of Moody, where he discloses an example of a player wagering “\$100.00 for one hundred consecutive keno games. Each individual game carries a wager of \$1.00” (*see col. 4: ln 2-11*).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to show the state of the art with respect to game control methods:

**USPN 6,012,983 Walker discloses a single wager for a series of plays.**

Any inquiry concerning this communication or earlier communication from the examiner should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M Thai can be reached at (571)-272-7147.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).

RH

February 22, 2004

**JOHN M. HOTAKING, II**  
**PRIMARY EXAMINER**

